

SENATE BILL REPORT

SB 5293

AS OF MARCH 4, 1991

Brief Description: Prohibiting debt adjusting.

SPONSORS: Senators Matson, Madsen and Newhouse; by request of Department of Licensing.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Forrest Bathurst (786-7429)

Hearing Dates: March 5, 1991

BACKGROUND:

The Department of Licensing is requesting this legislation so it can administer the "debt-adjusting" chapter consistent with 43.24.086 RCW. 43.24.086 RCW requires the department to administer each licensing program so the full costs of regulation are fully borne by the members of any particular profession or occupation.

"Debt adjusting" means managing, counseling, settling, adjusting, prorating, liquidating the indebtedness of a debtor, or receiving funds for the purpose of distributing them among a person's creditors.

There is presently one licensed debt adjuster in Washington State. The licensee does not actively conduct business; however, the license is renewed each year. The full costs of regulation cannot be charged to this one license because it would make it prohibitively expensive. Therefore, repealing the major sections of Chapter 18.28 RCW will enable the department to comply with the requirements of 43.24.086 RCW.

Present law allows nonprofit organizations to operate as debt-adjusters without being licensed, provided they do not charge a debtor more than \$15 each month for their services.

SUMMARY:

For-profit debt adjusting services shall not be permitted in Washington State. Violations shall constitute an unfair or deceptive practice consistent with the Consumer Protection Act, Chapter 19.86 RCW.

Debt-adjusting, for the purposes of this act, does not include the services provided by the following:

- (a) Attorneys at law, escrow agents, accountants, broker-dealers in securities, or investment advisers in

securities, while performing services solely incidental to the practice of their professions;

- (b) Any person, partnership, association, or corporation doing business under and as permitted by any law of this state or of the United States relating to banks, consumer finance businesses, industrial loan companies, trust companies, mutual savings banks, savings and loan associations, building and loan associations, credit unions, crop credit associations, development credit corporations, industrial development corporations, title insurance companies, or insurance companies;
- (c) Persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt adjusting, perform credit services for their employer;
- (d) Public officers while acting in their official capacities and persons acting under court order;
- (e) Any person while performing services incidental to the dissolution, winding up or liquidation of a partnership, corporation, or other business enterprise;
- (f) Nonprofit organizations dealing exclusively with debts owing from commercial enterprises to business creditors;
- (g) Nonprofit organizations engaged in debt adjusting which meet the following conditions:
 - (1) No payment, service charge, or charge for any reason is assessed against a debtor in excess of \$20 per month;
 - (2) No contribution in excess of \$20 per month is accepted from or on behalf of a debtor;
 - (3) The nonprofit organization does not utilize a third party in making payment plans or disbursing funds to a debtor's creditors; and
 - (4) Charges, other than the charges addressed in (g)(1), do not exceed \$50 total for the lifetime of the plan;
- (h) Any person or guardian appointed by the state and who contracts with the Department of Social and Health Services to perform the protective payee services provided for under RCW 74.08.280, if, in addition to the protective payee services, the person or guardian does not engage in any debt adjusting activity as defined in this chapter.

Appropriation: none

Revenue: none

Fiscal note: none requested